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8 IN THE UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

10 PAUL L. BROWNING,

11 Petitioner,

12 v.

13 TIMOTHY FILSON, *et al.*,

14 Respondents.

No. 3:05-cv-0087-RCJ-WGC

ORDER

15 In this capital habeas corpus action, this Court denied Paul Lewis Browning's Fifth  
16 Amended Habeas Corpus Petition, and Judgment was entered denying the Petition on August 1,  
17 2014 and January 13, 2015. *See* ECF 177, 195. Browning appealed, and on September 17, 2017  
18 the Ninth Circuit Court of Appeals reversed and remanded the case to this Court with  
19 instructions for this Court to grant Browning habeas corpus relief with respect to his convictions  
20 of Murder, Robbery, Burglary, and Use of a Deadly Weapon. *See Browning v. Baker*, 875 F.3d  
21 444 (9<sup>th</sup> Cir. 2017). The Court of Appeals denied rehearing on November 3, 2017. The United  
22 States Supreme Court denied *certiorari* on June 4, 2018. *See Filson v. Browning*, \_\_\_\_ U.S. \_\_\_\_,  
23 2018 WL 1696869 (No. 17-1390, June 4, 2018).

24 [PROPOSED] ORDER - 1

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1 The Court of Appeals issued its Mandate on July 17, 2018. ECF No. 221. The Court of  
2 Appeals' Order, reversing the Judgment of this Court and remanding the case with instructions to  
3 grant the writ as described above, states:

4 The Supreme Court of Nevada's denial of Browning's claims under *Brady* and  
5 *Strickland* constituted an unreasonable application of clearly established Supreme  
6 Court precedent. Browning is entitled to a writ of habeas corpus with respect to  
7 his convictions of burglary, robbery with the use of a deadly weapon, and murder  
with the use of a deadly weapon. Because Browning has offered no reason to call  
the validity of his escape conviction into question, he is not entitled to habeas  
relief as to that conviction.

8 875 F.3d at 476.

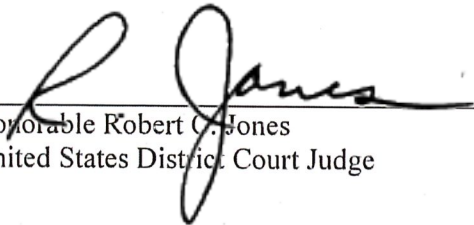
9 IT IS THEREFORE ORDERED that Petitioner's Fifth Amended Petition for a Writ of  
10 Habeas Corpus (Dkt. No. 115) is GRANTED with respect to Petitioner's claims of ineffective  
11 assistance of counsel and violations of the due process right to disclosure of exculpatory and  
12 impeaching evidence, as delineated in the opinion of the Court of Appeals. See *Browning*, 875  
13 F.3d at 459-476. The Respondents shall release Petitioner from custody on his conviction and  
14 sentences for Burglary, Robbery with the Use of a Deadly Weapon, and Murder with the Use of  
15 a Deadly Weapon, unless the State of Nevada conducts a new trial on these charges untainted by  
16 the constitutional violations found therein.

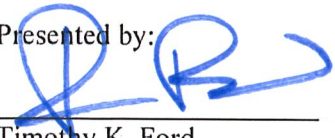
17 IT IS FURTHER ORDERED that Petitioner shall be released from custody on these  
18 charges unless, within sixty (60) days of the date of this order, the respondents file in this action  
19 a written notice of election to retry petitioner on these charges, and within one hundred eighty  
20 (180) days of the date of this order the State of Nevada commences jury selection in that retrial.  
21 Either party may request from this Court reasonable modification of the time limits set forth in  
22 this paragraph.

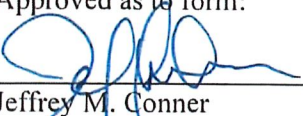
23 IT IS FURTHER ORDERED that the Clerk of Court shall enter Judgment accordingly.

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DATED this 25th day of July, 2018.

  
\_\_\_\_\_  
Honorable Robert C. Jones  
United States District Court Judge

Presented by:   
\_\_\_\_\_  
Timothy K. Ford  
Attorney for Petitioner

Approved as to form:  
  
\_\_\_\_\_  
Jeffrey M. Conner  
Attorney for Respondent: